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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

RICHARD KADREY, *et al.*,
 Individual and Representative Plaintiffs,
 v.
 META PLATFORMS, INC., a Delaware
 corporation;
 Defendant.

Case No. 3:23-cv-03417-VC-TSH

**DEFENDANT'S SUPPORT FOR
ADMINISTRATIVE MOTION TO CONSIDER
WHETHER ANOTHER PARTY'S MATERIAL
SHOULD BE SEALED [DKT. 301]**

1 Pursuant to Civil Local Rule 79-5(f), Defendant Meta Platforms, Inc. (“Meta”) respectfully
 2 supports Plaintiffs’ Administrative Motion to Consider Whether Another Party’s Material Should
 3 Be Sealed (Dkt. 301).

4 Meta requests to seal the following documents in order to protect Meta’s confidential
 5 business information:

6 Document	7 Sealing Request
8 Plaintiffs’ Notice of Motion and Motion for Leave 9 to Amend Consolidated Complaint (“Motion”) (Dkt. 300)	10 • Redacted Portions in Exhibit A 11 to Declaration of Nikki Vo (“Vo 12 Declaration)
13 Exhibit 1 to the Declaration of Joshua M. Stein 14 (“Stein Declaration”) (Dkt. 300-2)	15 • Entire document
16 Exhibit 2 to Stein Declaration (Dkt. 300-3)	17 • Entire document
18 Exhibit 3 to Stein Declaration (Dkt. 300-4)	19 • Entire document
20 Exhibit 5 to Stein Declaration (Dkt. 300-6)	21 • Entire document
22 Exhibit 6 to Stein Declaration (Dkt. 300-7)	23 • Entire document
24 Exhibit 7 to Stein Declaration (Dkt. 300-8)	25 • Entire document
26 Exhibit 8 to Stein Declaration (Dkt. 300-9)	27 • Entire document
28 Exhibit 9 to Stein Declaration (Dkt. 300-10)	29 • Entire document
30 Appendix A to Stein Declaration (Dkt. 300-11)	31 • Redacted portions in Exhibit B 32 to Vo Declaration
33 Appendix B to Stein Declaration (Dkt. 300-12)	34 • Redacted portions in Exhibit C 35 to Vo Declaration

22 **I. LEGAL ARGUMENT**

23 Though the presumption of public access to judicial proceedings and records is strong, it
 24 “is not absolute.” *Nixon v. Warner Commc’ns. Inc.*, 435 U.S. 589, 598 (19787). The Ninth Circuit
 25 treats documents “attached to dispositive motions differently from records [i.e., documents]
 26 attached to non-dispositive motions.” *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1180
 27 (9th Cir. 2006); *Ctr. for Auto Safety v. Chrysler Grp.*, 809 F.3d 1092, 1098 (9th Cir. 2016). For
 28 non-dispositive motions, such as Plaintiffs’ Motion to Amend Case Management Schedule (Dkt.

1 193), the “good cause” standard applies. *OpenTV v. Apple*, No. 14-cv-01622-HSG,
 2 2015 WL 5714851, at *2 (N.D. Cal. Sept. 17, 2015); *Kamakana*, 447 F.3d at 1180 (“A ‘good
 3 cause’ showing will suffice to seal documents produced in discovery.”). The Federal Rules afford
 4 district courts “flexibility in balancing and protecting the interests of private parties.” *Kamakana*,
 5 447 F.3d at 1180; *DSS Tech. Mgmt. v. Apple*, No. 14-cv-05330-HSG, 2020 WL 210318, at *8
 6 (N.D. Cal. Jan. 14, 2020), *aff’d*, 845 F. App’x 963 (Fed. Cir. 2021) (finding good cause to seal
 7 “confidential business and proprietary information”).

8 The Exhibits to the Stein Declaration consist of highly confidential internal discussions
 9 among Meta employees, deposition testimony by Meta’s employees, and internal business
 10 documents concerning Meta’s processes in developing its generative AI offerings. Many of the
 11 documents contain detailed technical information and trade secret information. The redacted
 12 portions of Plaintiffs’ Motion and Appendices A and B to the Stein Declaration – which consist of
 13 Plaintiffs’ proposed Third Amended Consolidated Complaint and a redline of that complaint
 14 against the operative complaint in this case – reflect, refer to, and discuss the information contained
 15 in these documents.

16 As this information is highly confidential, Meta must request sealing of the documents and
 17 redaction portions listed above. Meta takes steps to carefully protect the confidentiality of
 18 information of this sort because the disclosure of such information has the potential to cause
 19 significant competitive injury to Meta. *See, e.g., Space Data Corp. v. Alphabet Inc.*, No. 16-CV-
 20 03260-BLF, 2019 WL 285799, at *1 (N.D. Cal. Jan. 22, 2019) (finding information regarding
 21 party’s confidential and proprietary technical information sealable). To the extent the materials
 22 Meta seeks to seal include non-confidential background information, sealing of such information
 23 within the context of Plaintiffs’ Motion and proposed amended complaint is necessary to maintain
 24 the confidentiality of Meta’s protected information, as the discussion necessarily implies conduct
 25 by Meta which is highly sensitive, non-public, and which Meta has taken steps to keep confidential.
 26 Accordingly, this sealing request is critical to protecting Meta’s confidential sensitive technical and
 27 competitive information.

28

1 The specific basis for sealing these materials is outlined in the accompanying declaration
 2 of Meta's Director and Associate General Counsel, Nikki Vo. As outlined in Ms. Vo's declaration,
 3 disclosure of the protected information contained in these materials would work competitive harm
 4 to Meta if this information is publicly disclosed. The Parties' sealing requests and proposed
 5 redactions are narrowly tailored to include only that information which would cause specific,
 6 articulable harm, as identified in Ms. Vo's declaration. In each instance, the harm to Meta
 7 outweighs the public's interest in disclosure. *See, e.g., In re iPhone App. Litig.*, No. 11-md-02250-
 8 LHK, 2013 WL 12335013, at *2 (N.D. Cal. Nov. 25, 2013) (granting motion to seal where the
 9 defendant's interest in "maintaining the confidentiality of information about its technology and
 10 internal business operations" outweighed that of the public in accessing such documents).

11 **II. CONCLUSION**

12 For the foregoing reasons, Meta respectfully requests that the Court grant Plaintiffs' Motion
 13 to Consider Whether Another Party's Material Should Be Sealed.

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15 Dated: December 4, 2024

COOLEY LLP

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By: /s/Colette Ghazarian

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